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8 Attorney for Defendant Carol-Ann Tognazzini

9
10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN JOSE DIVISION

13 VESTA STRATEGIES, LLC,

14 Plaintiff,

15 v.

16 ROBERT E. ESTUPINIAN, GINNEY
17 ESTUPINIAN, MUTUAL VISION, LLC,
18 MILLENNIUM REALTY GROUP,
19 VESTA REVERSE 100, LLC, VESTA
20 CAPITAL ADVISORS, LLC, CAROL-
21 ANN TOGNAZZINI, EDMUNDO
22 ESTUPINIAN, and HAYDEE
23 ESTUPINIAN;

24 Defendants.

Case No. C 07-06216 JW RS

NOTICE OF MOTION AND MOTION TO
WITHDRAW AS COUNSEL OF RECORD

Date: June 23, 2008
Time: 9:00 a.m.
Dept: Room 8, 4th Floor, SJ
Judge: James Ware

25 NOTICE OF MOTION

26 To: Plaintiff Vesta Strategies, LLC, Defendant Carol-Ann Tognazzini, Defendants, Counter-
27 Defendants and Third Party Defendants herein and their Attorneys of Record:

28 PLEASE TAKE NOTICE THAT on June 23, 2008, at 9:00 a.m. in Department 8 of
this Court, or as soon thereafter as counsel can be heard, David L. Olson, Esq., will move this court

NOTICE OF MOTION AND MOTION TO WITHDRAW AS ATTORNEY OF RECORD

1 for an order relieving him and the Law Offices of David L. Olson as attorney of record for said
2 paragraph. Defendant Carol-Ann Tognazzini ("Tognazzini").

3 MOTION

4 The grounds for the motion are that:

5
6 1. Defendant Tognazzini's failure and/or reluctance to authorize necessary and ordinary
7 activities on her behalf has rendered it unreasonably difficult for moving party to carry out his
8 employment and the prosecution of this matter on her behalf effectively;

9 2. Defendant Tognazzini and other individuals, who, pursuant to a written Fee Agreement,
10 had agreed to pay her defense costs have failed and refused and continue to fail and refuse to pay the
11 attorney's fees and costs due moving party under said Fee Agreement.

12 3. Defendant Tognazzini has consented to the substitution and withdrawal of counsel as
13 evidenced by the written Consent of Carol-Ann Tognazzini to Substitution and Withdrawal of
14 Counsel filed herewith.

15 4. Because revealing the facts and details on which this motion is based would involve
16 disclosure of client confidences, the undersigned attorney represents and certifies to the court that
17 good grounds for withdrawal exist under one or more of the grounds specified in California Code of
18 Professional Responsibility, Rule 3-700 (C) (1) (2).

19 Furthermore, the undersigned has discussed his withdrawal with the client, explained her
20 options and urged her to find another attorney rather than appearing Pro Se in this matter. As of the
21 date of filing of this motion Defendant Carol-Ann Tognazzini has agreed to my withdrawal, but has
22 not advised me as to whether she has another attorney or will appear Pro Se.

23 5. If the court insists on a further factual showing as a condition of granting this motion,
24 this attorney will supply the court with an affidavit that is sealed and shown only to the client and
25 the court or will testify in chambers in a hearing attended only by the court, the client, this moving
26 attorney, and the court reporter, with the transcript to be sealed until further order of the court, or
27 whatever other method is acceptable to the court that will not breach client confidences.

28 4. As explained in the Affidavit of David L. Olson, Defendant Carol Ann Tognazzini was
served with a copy of this motion in the best possible manner by mailing and faxing the motion

1 papers to her at her current residence address.

2 5. If this motion is granted, Carol Ann Tognazzini may be served with notices and papers at
3 7425 26th Street Rio Linda, California and may be contacted by telephone at 916- 992-6497.

4
5 SUPPORTING PAPERS

6 This motion is based on the pleadings and papers on file in this action, this Notice of Motion
7 and Motion, the Affidavit of David L. Olson, Esq., the Consent of Carol-Ann Tognazzini to
8 Substitution and Withdrawal of Counsel, and whatever evidence and argument is presented at the
9 hearing of this motion.

10 LAW OFFICES OF DAVID L. OLSON

11 Dated: April 25, 2008

By



David L. Olson, Esq.

12 Attorney for Defendant, Counter-Claimant and Third Party
13 Plaintiff Carol-Ann Tognazzini
14

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